

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
EUGENE DIVISION

JON QUINTIN JOHNSTON,

Petitioner,

v.

GARRETT LANEY, Superintendent,
Oregon State Correctional Institution; and
**OREGON BOARD OF PAROLE AND
POST-PRISON SUPERVISION,**

Respondents.

Case No. 6:20-cv-00969-AC

OPINION AND ORDER

MOSMAN, J.,

On October 14, 2021, Magistrate Judge John V. Acosta issued his Findings and Recommendation (“F&R”) [ECF 29], recommending that I deny Petitioner Jon Johnston’s Petition for Writ of Habeas Corpus [ECF 1] and enter a judgment of dismissal. Johnston filed objections to the F&R [ECF 31]. Respondents—the Superintendent of the Oregon State Correctional Institution and the Oregon Board of Parole and Post-Prison Supervision—responded to those objections [ECF 32]. Upon review, I agree with Judge Acosta and DENY the petition.

DISCUSSION

The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge


but retains responsibility for making the final determination. The court is generally required to make a de novo determination regarding those portions of the report or specified findings or recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, de novo or under any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any part of the F&R. 28 U.S.C. § 636(b)(1)(C).

CONCLUSION

Upon review, I agree with Judge Acosta's recommendation and I ADOPT the F&R [ECF 29]. Accordingly, I DENY the Petition for Writ of Habeas Corpus [ECF 1] and decline to issue a certificate of appealability.

IT IS SO ORDERED.

DATED this 7th day of January, 2022.


MICHAEL W. MOSMAN
United States District Judge